

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **MINUTES OF BOARD MEETING**

**DECEMBER 9, 2008**

President Stephen Murphy called the meeting to order at 10:00 A.M. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Stephen Murphy, President, Dennis Hamilton, Paula Bridges, Jill Horner, Eugene Williams and John Ray Clemmons. Absent was Vice President David Murphy.

Staff members present were Robert Gribble, Executive Director, Adrian Chick, Staff Attorney and Jimmy Gossett, Administrative Assistant.

### **ADOPTION OF AGENDA:**

A motion was made by Eugene Williams to approve the agenda as printed.

Seconded by Jill Horner

Adopted by voice vote

### **APPROVAL OF MINUTES:**

A motion was made by Jill Horner to approve the minutes of the October 14, 2008 Board Meeting.

Seconded by Eugene Williams

Adopted by voice vote

### **LEGAL REPORT:**

#### **ADRIAN CHICK, STAFF ATTORNEY**

##### **1. Case No.: L08-FUN-RBS-2007085581**

This complaint alleges that the establishment was operated without being managed by a licensed funeral director.

**Response:** Respondent claims to have retained a licensed funeral director to manage his establishment, but the alleged manager denies the terms of the agreement.

**Complaint History:** Numerous.

**Recommendation:** Authorization for hearing

A motion was made by Jill Horner to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**2. Case No.: L08-FUN-RBS-2008015221**

This complaint alleges that the Respondent refused to cooperate with a field representative attempting to perform an inspection.

**Response:** No response was received

**Complaint History:** Numerous.

**Recommendation:** Authorization for hearing

A motion was made by Jill Horner to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**3. Case No.: L08-FUN-RBS-2008017501**

This complaint alleges that the establishment lacked a required crematory inspection report and that price lists were in violation of FTC rules.

**Response:** Respondent provided the establishment's updated price list and documents from a crematory in Georgia.

**Complaint History:** Numerous

**Recommendation:** Authorization for hearing

A motion was made by Jill Horner to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**4. Case No.: L08-FUN-RBS-2008022681**

**5. Case No.: L08-FUN-RBS-2008022691**

These complaints were opened by staff regarding information supplied on a student/apprentice registration form that appeared inaccurate.

**Response:** The response clarified the information satisfactorily.

**Complaint History:** None

**Recommendation:** Dismiss

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Dennis Hamilton

Adopted by voice vote

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**6. Case No.: L08-FUN-RBS-2008022071**

The Respondent is a former employee of the Complainant establishment. The Respondent completed the required apprenticeship at the Complainant's establishment in September 2002 and was granted a funeral director license by the Board in May 2003. The Respondent worked as a funeral director for Complainant for a period of time but has since left the Complainant establishment and is in the process of opening another establishment nearby. Now, six years after the apprenticeship was completed, the Complainant alleges that the Respondent obtained licensure under false pretenses. Specifically, the Complainant alleges that the Respondent did not work forty (40) hours per week during the apprenticeship. To support its allegation, the Complainant submitted two statements signed by two owners of the Complainant establishment. Each statement alleges essentially that Respondent was not present at the establishment as indicated on the quarterly reports.

**Response:** The Respondent alleges that this complaint is an attempt to prevent competition and that the allegations are completely untrue. Respondent's file contains verified quarterly reports that were properly filed with the Board for the required two year apprenticeship.

**Complaint History:** None

**Comments:**

- (1) The Respondent's proposed establishment would be in direct competition with Complainant, suggesting bias on the part of the Complainant;
- (2) The allegations have been withheld by Complainants for six (6) years without explanation;

- (3) The Complainant itself once employed Respondent as a funeral director which suggests that either the Complainant had no legitimate concern about the apprenticeship or the Complainant employed the Respondent even though it suspected the license was obtained through false pretenses; and
- (4) The Respondent has denied the allegations, and the file contains quarterly reports duly filed and verified under oath.

These facts do not justify the continuation of this complaint.

**Recommendation:** Dismiss.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Dennis Hamilton

Adopted by voice vote

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**7. Case No.: L08-FUN-RBS-2008018631**

**8. Case No.: L08-FUN-RBS-2008020781**

The decedent had an insurance policy for \$10,000 but apparently the establishment was not made aware of this until after the funeral. Instead, the Complainant paid the establishment by check in the amount of approximately \$5600 shortly after the funeral. Several weeks later, the Complainant received a check from the insurance company for \$4,000. The Complainant went to the establishment to find out what had happened to the other \$6,000, learned that her signature had been forged on an assignment form and that the establishment had received a check from the insurance company in the amount of approximately \$6,000. The establishment then wrote a check to the Complainant for the amount of the check from the insurance company.

**Response:** The establishment states that it had no knowledge that an insurance policy was even in existence, and that it was surprised to find an assignment form with a signature that clearly was not authentic. The establishment attributes the conduct to one of its employees who has completed his apprenticeship and applied for a funeral director license but has been unable to pass the laws exam. A handwriting expert retained by the establishment alleges that the signature on the assignment form is that of the employee. The employee placed his notary stamp over the allegedly forged signature.

The unlicensed employee admits that he notarized the document but claims it was already signed.

**Complaint History:** None

**Recommendation:** Legal recommends a Consent Order be signed by the unlicensed employee admitting that he falsified and improperly notarized the assignment form. The Consent Order should also provide for an agreement that the Board will give no further consideration to any applications filed by him until the passage of 120 days. Legal recommends a Letter of Caution to the establishment.

A motion was made by Dennis Hamilton to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

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**9. Case No.: L08-FUN-RBS-2008014221**

An inspection of this establishment on April 23, 2008 revealed that the embalming room was very dirty with blood from previous bodies being splattered on tables, sink and floor. There was no running water at the establishment. Ceiling tiles were falling and buckets were placed on the floor to catch water from a leaking roof. A warning was issued by the Field Representative on the date of inspection to correct the unsanitary conditions and to notify the Board upon completion.

**Response:** No response has been received.

**Complaint History:** Numerous.

**Recommendation:** Authorization for hearing.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Dennis Hamilton

Adopted by voice vote

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**10. Case No.: L08-FUN-RBS-2008019871**

An inspection of this establishment on August 20, 2008 again revealed that the embalming room was very unsanitary. The inspector reported the odor in the embalming room to be "overwhelming" and blood from previous bodies was splattered on tables, sink and floor. Soiled linens remained in the room from procedures approximately 30 days earlier. The inspection also revealed that the funeral director and embalmer licenses of two employees were not available for inspection, and there was no Outer Burial Container Price List.

**Response:** No response has been received.

**Complaint History:** Numerous.

**Recommendation:** Authorization for hearing.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Dennis Hamilton

Adopted by voice vote

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**11. Case No.: L08-FUN-RBS-2008019391**

This complaint was filed by a former employee after being terminated by the Respondent. The Complainant alleges that two unlicensed employees met with families and made funeral arrangements, one employee forged another's signature on a certificate of death, and that the Respondent failed to properly report wages.

**Response:** The Respondent denies the above allegations and attributes them to ill feelings by the complainant after being terminated.

**Complaint History:** Two closed (unrelated)

**Recommendation:** Dismiss

A motion was made by Dennis Hamilton to accept Counsel's recommendation.

Seconded by Jill Horner

Adopted by voice vote

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**12. Case No.: L08-FUN-RBS-2008018611**

This complaint was filed by a licensed establishment alleging that the Respondent establishment has failed to pay for merchandise pursuant to a contract (two caskets loaned/supplied to the Respondent establishment).

**Response:** No response received.

**Complaint History:** None

**Recommendation:** Letter of Warning

A motion was made by Dennis Hamilton to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

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**13. Case No.: L08-FUN-RBS-2008024391**

An inspection on October 8, 2008 revealed that the establishment's license expired August 31, 2008 and had not been renewed. The establishment continued to file the required monthly reports with the health department during the period of expiration, which evidences continued operation. The reports did not indicate that any funerals were conducted during this period of time.

**Response:** No response received.

**Complaint History:** Two closed (unrelated)

**Recommendation:** Letter of Warning

A motion was made by Paula Bridges to accept Counsel's recommendation.

Seconded by Jill Horner

Adopted by voice vote

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**14. Case No.: L08-FUN-RBS-2008020811**

This complaint alleges that the Respondent establishment advertised a package price without providing an itemization as required by TCA 62-5-106.

**Response:** The Respondent has suspended the advertisement in question until such time as it assures compliance with Tennessee's requirements.

**Complaint History:** Two closed (unrelated).

**Recommendation:** Letter of Warning.

A motion was made by Dennis Hamilton to accept Counsel's recommendation.

Seconded by Jill Horner

Adopted by voice vote

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**15. Case No.: L08-FUN-RBS-2008021031**

An inspection revealed that the Respondent's establishment license expired on June 30, 2008. Arrangements were made with four families during the period of expiration.

**Response:** The Respondent was unaware until the inspection that the license had expired. A representative of the establishment drove to Nashville that same day and renewed the establishment license. The establishment acknowledges conducting four services during the relevant time period.

**Complaint History:** Two closed (unrelated).

**Recommendation:** Consent Order assessing civil penalty of \$400 (\$100 per violation) and authorization for hearing.

A motion was made by Paula Bridges to accept Counsel's recommendation.

Seconded by Eugene Williams

Adopted by voice vote

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**16. Case No.: L08-FUN-RBS-2008021011**

An inspection on July 15, 2008 revealed the following violations:

- FTC Rules – The General Price List lacks the price of a container offered;
- FTC Rules – A casket in the selection room is not listed on the Casket Price List;
- FTC Rules – Statements lack required description of merchandise chosen;
- FTC Rules – Statements fail to provide reason for embalming where required; and
- TCA 62-5-107 – Cremation authorization forms not signed by the funeral director.

**Response:** All discrepancies have been corrected.

**Complaint History:** One closed (unrelated).

**Recommendation:** Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Dennis Hamilton to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote



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**17. Case No.: L08-FUN-RBS-2008024411**

An inspection on October 22, 2008 revealed that three cremation authorization forms were missing from cremation files. The three missing forms were located and submitted during the inspection but two lacked the signature of the funeral director, with only a printed name instead.

**Response:** The Respondent regrets the discrepancies and has taken steps to prevent future occurrences.

**Complaint History:** None

**Recommendation:** Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Jill Horner to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**18. Case No.: L08-FUN-RBS-2008022581**

An inspection on September 15, 2008 revealed three Statements of Funeral Goods and Services lacked a required reason for embalming in violation of FTC rules and the establishment failed to have displayed the latest inspection report of the crematory used in violation of TCA 62-5-107.

**Response:** Respondent indicates that it will take steps to prevent future occurrences.

**Complaint History:** Three closed. The last complaint was closed in January, 2008 by payment of a \$250 civil penalty for failure to provide a reason for embalming as required by FTC rules, the same violation then as present complaint.

**Recommendation:** Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Eugene Williams to accept Counsel's recommendation.

Seconded by Paula Bridges

Adopted by voice vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**REPORT OF LICENSES ISSUED SEPTEMBER 10, 2008 – OCTOBER 13, 2008**  
**BY EXECUTIVE DIRECTOR AS PER BOARD AUTHORITY**

**LICENSEE REPORT:**

**Establishments**

Joe Ford Funeral Home, LLC Memphis, TN	New Establishment
Grant Funeral Services Estill Springs, TN	Change of Location

**Individuals**

Ashley LeAnn Green Lawrenceburg, TN	Funeral Director/Embalmer
Amanda Elaine Johnson Byhalia, MS	Funeral Director/Embalmer
Brian Andrew McCasland Jonesborough, TN	Funeral Director/Embalmer By Reciprocity
Ronald William Rivenburgh Millington, TN	Funeral Director/Embalmer By Reciprocity
Reed Temple Atchley Sevierville, TN	Funeral Director
Kenneth Rex Ellington Brownsville, TN	Funeral Director
Jennifer Crox Evans Cleveland, TN	Funeral Director
Monica Crox Oetting Cleveland, TN	Funeral Director
Michael Steven Taylor Ringgold, GA	Funeral Director
Charles Reed Wood Wildersville, TN	Funeral Director

**CLOSED ESTABLISHMENT REPORT:**

**Closed Establishments:**

Two (2) establishments have reported closing since the last board meeting:

- **Crawford Funeral Home & Cremation Center, 2930 Murfreesboro Pike, Nashville**
- **Kiser Funeral Home, 401 West Main Street, Greeneville**

**DISCIPLINARY ACTION REPORT:**

**The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and unless noted otherwise, the civil penalty has been paid by the respondent. The Executive Director requests the Board's acceptance of the following Consent Orders.**

Complaint No. 2008020041

Violation: Cremation authorization form lacks statutory required information, business card posted on bulletin board lists an establishment name that differs from the licensed name and price for an alternative container on the General Price List is different than that listed on the Casket Price List

Action: \$1000 Civil Penalty

Complaint No. 2008003561

Violation: A cremation authorization form was not signed by a funeral director and another was not retained in the file as statutorily required and when the body is embalmed, separately charging for washing and disinfecting remains which must be included in the embalming charge

Action: \$750 Civil Penalty

Complaint No. 2008006061

Violation: Advertising funeral merchandise and services indicating a specific price without itemization and price for each and every item of the merchandise and services

Action: \$250 Civil Penalty

Complaint No. 2008019481

Violation: Unlawful for any person not a registered funeral director to engage in funeral directing (an unlicensed employee signed cremation authorization form as "funeral director") and a Statement of Goods and Services Selected failed to provide a description of merchandise chosen

Action: \$250 Civil Penalty

Complaint No. 2008021021

Violation: Operating establishment and conducting funerals on invalid license due to non-renewal in a timely manner, cremation files lacked a copy of the cremation authorization form, reason for embalming omitted where required on the Statement of Funeral Goods and Services Selected and failure to provide a description of merchandise and services on Statement of Funeral Goods and Services Selected

Action: \$700 Civil Penalty

Complaint No. 2008010421

Violation: Causing an advertisement to be placed in a telephone directory for an unlicensed establishment

Action: \$500 Civil Penalty (Payment one of three for \$167.00 has been received)

Complaint No. 2008006921

Violation: Presentation of a document to the field representative purporting to be a "funeral director and embalmer" license but such document was in fact not issued by the Board

Action: \$500 Civil Penalty

Complaint No. 2008019791

Violation: The current licenses of a funeral director who is the manager and an embalmer were not available for inspection, a cremation file was checked and the authorization form with statutory required information was not present and failure to maintain a copy of license and latest inspection report of the crematory that the funeral homes uses

Action: \$500 Civil Penalty

Complaint No. 2008019471

Violation: Current licenses of three funeral directors were not available for inspection and failure to maintain a copy of the license and latest inspection report of the crematory that the funeral home uses

Action: \$250 Civil Penalty

Complaint No. 2008021061

Violation: An unlicensed employee engaging in conduct that constitutes funeral directing (arrangement conferences) with customers and aiding and abetting unlicensed conduct

Action: \$1300 Civil Penalty

Complaint No. 2008013971

Violation: FTC Rules and cremation files lacked a cremation authorization form

Action: \$250 Civil Penalty

Complaint No. 2008019491

Violation: Alternative containers not listed on Casket Price List, caskets in selection room not listed on Casket Price List and Statements of Funeral Goods and Services Selected lacked required description of merchandise and services

Action: \$500 Civil Penalty

Complaint No. 2008019861

Violation: The current licenses of two funeral directors and an embalmer were not available for inspection, failure to maintain current license of the crematory that the funeral home uses, a casket in the selection room was not listed on the Casket Price List and an alternative container was not listed on the Casket Price List

Action: \$750 Civil Penalty

Complaint No. 2008021071

Violation: Aiding and abetting an unlicensed individual to practice funeral directing on numerous occasions

Action: \$650 Civil Penalty

Complaint No. 2008020011

Violation: Current license of a funeral director was not available for inspection, casket price range, outer burial container price range and immediate burial price were incorrect on General Price List, the prices of two caskets were listed incorrectly on the Casket Price List and the prices of two outer burial containers were listed incorrectly on the Outer Burial Container Price List

Action: \$250 Civil Penalty

Complaint No. 2008020061

Violation: Current funeral director and embalmer license of the manager were invalid and the manager had signed a certificate of death for six decedents as both funeral director and embalmer, establishment not managed by a licensed funeral director, five caskets in the selection room were not listed and the price of one casket in selection room did not match price on the Casket Price List, and the license and latest inspection report of the crematory that the funeral home uses was not available for inspection

Action: \$1200 Civil Penalty

Complaint No. 2008019891

Violation: Aiding and abetting unlicensed conduct by allowing an unlicensed employee to enter into a contract for the arrangement of funeral merchandise and services on three different occasions, practice by unregistered persons and preparation room floor needing repair  
Action: \$500 Civil Penalty

Complaint No. 2008019371

Violation: Operating establishment and conducting funerals on invalid license due to non-renewal in a timely manner  
Action: \$700 Civil Penalty

A motion was made by Paula Bridges to approve the Executive Director's request for the Board's acceptance of the above listed Consent Orders.

Seconded by Eugene Williams

Adopted by voice vote

#### **OPEN COMPLAINT REPORT:**

As of December 5, 2008, there were 73 open complaints.

#### **APPROVAL OF INDIVIDUAL LICENSE:**

Upon motion, based upon application record, the following individual was approved for licensure:

**Timothy Duane Dilda**  
**Camden, TN**

**Funeral Director/Embalmer**

#### **APPROVAL OF ESTABLISHMENT LICENSE**

Upon motion, based upon application record, the following establishments were approved for licensure:

**BALDWIN CREMATION & MORTUARY SERVICE**  
**914 NORTH CHERRY STREET**  
**KNOXVILLE, TN**

#### **Changes of Ownership and Name**

**Ownership: Corporation**

**Owner: Baldwin's Greater Knoxville Embalming & Shipping Service, Inc.,**  
**Knoxville, TN**

**CREMATION SOCIETY OF TENNESSEE, LLC**

**3011 HARRAH DRIVE, SUITE 0  
SPRING HILL, TN**

**New Establishment**

**New Ownership: Limited Liability Company**

**New Owner: Cremation Society of Tennessee, LLC, Columbia, Tennessee**

**ELECTION OF BOARD OFFICERS FOR 2009:**

**President:**

Dennis Hamilton made a motion to elect David Murphy as President.

The motion was seconded by Eugene Williams.

By voice vote, David Murphy was elected President of the Board for 2009.

**Vice President:**

Eugene Williams made a motion to elect Dennis Hamilton as Vice President.

The motion was seconded by Paula Bridges.

By voice vote, Dennis Hamilton was elected Vice President of the Board for 2009.

**Continuing Education Liaison:**

Eugene Williams nominated Paula Bridges as Continuing Education Liaison for 2009.

The nomination was seconded by Jill Horner.

By voice vote, Paula Bridges was elected as the Continuing Education Liaison for 2009.

**ADJOURN:**

A motion was made by Eugene Williams to adjourn.

Seconded by Dennis Hamilton

Adopted by voice vote

There being no further business, the meeting was adjourned by President Steve Murphy at 11:07 A.M.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director